

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket No.: 55704 and
57527**

Petitioner:

ABC HOSPITALITY LLC,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF EQUALIZATION
(DOCKET 55704),**

**ARAPAHOE COUNTY BOARD OF
COMMISSIONERS (DOCKET 57527).**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 23, 2012, James R. Meurer and Gregg Near presiding. Petitioner was represented by Norman H. Wright, Esq. and Steve Letman, Agent. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2010 actual value of the subject property and is also requesting an abatement of taxes paid in 2009.

Both parties agreed to consolidate the separate hearings for valuation and abatement. The parties agreed the Board will provide a single written opinion.

Subject property is described as follows:

**9257 E. Costilla Avenue
Englewood, CO 80112
Arapahoe County Schedule No. 2075-27-2-22-002**

The subject property is a limited service hotel located on the east side of Interstate 25 between E. Arapahoe Road and E. Dry Creek Road. The hotel has 119 rooms and, at the time of Petitioner's purchase, it was under a 15-year franchise agreement with Sleep Inn. The hotel was

constructed in 1999 and was purchased in July of 2007 for \$3,975,000. The hotel has an indoor pool and offers guests a continental breakfast.

The property has exposure to northbound traffic on I-25 but is difficult to access. The hotel is located to the south of a Target store and is accessed through the parking lot of an adjacent Hampden Inn.

Petitioner presented the following indicators of value:

Market:	Not provided
Cost:	Not provided
Income:	\$2,100,00.00

Petitioner is requesting an actual value of \$2,100,000.00 for the subject property for tax year 2010 and an abatement for tax year 2009.

Petitioner's witness, Mr. Pinder Dhanda, testified regarding his purchase of the subject property in 2007 and the operations and financial results since the purchase. Mr. Dhanda stated he has owned similar properties in the Seattle, Washington area. When Mr. Dhanda learned of the hotel's availability he approached the listing broker. Mr. Dhanda indicated he visited the property and determined the price to be supported by the revenue the hotel generated. His purchase included the franchise agreement, personal property, goodwill, land, and building. After the purchase one of the rooms was converted to an exercise room, leaving a total of 118 rooms.

All of the employees except the general manager were retained. Mr. Dhanda stated that occupancy in the hotel began to drop after the purchase because the former general manager was contacting previous clients and directing them to the former manager's nearby hotel. Mr. Dhanda indicated that 20% to 30% of customers are repeat clients. Mr. Dhanda also indicated the property's limited visibility from the access roads off of I-25 was a constant difficulty for customers.

Petitioner's witness, Steve Letman with Consultus Asset Valuation, testified regarding a tax analysis report performed on the property for Mr. Dhanda. Mr. Letman stated he considered the Cost, Income and Sales Comparison Approaches. The Cost Approach was considered but not relied upon in his assessment since buyers do not utilize that approach when considering older buildings subject to depreciation. An analysis and opinion was developed regarding the appropriateness of the land assessment. It was concluded the assessment lies in the range of the comparable sales researched.

Mr. Letman utilized the income figures provided by the owner for 2007 and 2008, and then capitalized the reported net operating incomes by a capitalization rate derived from third party sources. He concluded to an assessment value of \$2,100,000.00 by this approach.

Mr. Letman presented two sales of hotels, one that closed in August 2008 and a second that closed in June of 2005. The sales indicated a range from \$17,600.00 to \$25,400.00 per room and were considered to support the value indicated by the Income Approach.

Respondent presented the following indicators of value:

Market:	Not provided
Cost:	Not provided
Income:	Not provided

Respondent assigned a value of \$3,585,000.00 for the subject property for tax year 2010. On appeal to the Board of Equalization the value was adjusted to \$2,856,000.00.

Respondent's witness, Jared Lay, a licensed real estate appraiser, testified to development of an appraisal report for a mortgage lender to facilitate the purchase of the subject property in 2007. Mr. Lay stated he was the principal appraiser for the assignment. Petitioner's attorney in voir dire questioned whether Mr. Lay had obtained permission from the lender to testify in this regard. Mr. Lay indicated he had not obtained permission and Petitioner's attorney objected to further testimony and acceptance of the report. The objection was sustained.

Respondent's witness, Steven Sneddon, Deputy Assessor for Arapahoe County, testified regarding the comparable sales presented by Mr. Letman.

Petitioner's Sale One was identified as a Motel 6 and included \$200,000.00 in franchise fees and \$300,000.00 in personal property. The fee value of the property was \$3,001,000.00, or, \$21,746 per room. Mr. Sneddon also indicated the transaction included the income from a sandwich shop located on the property. The sale date of the property is outside of the valuation period and the property was not under contract prior to June 30, 2008.

Petitioner's Sale Two is a Comfort Suites property that contains only 78 rooms. Although reported by Mr. Letman as 188 units the property was converted from single rooms to "suites" producing the different room counts. The sale included \$600,000.00 in franchise fees and personal property for a fee value of \$2,700,000.00, or, \$34,615.00 per room. Mr. Sneddon stated a property designed for suites was not comparable to the subject.

Mr. Sneddon also pointed to the sale of the subject within the base period. In confirmation of the sale it was determined the price included \$90,000.00 in personal property and \$300,000.00 for the franchise fee. The fee value of the sale was therefore \$30,126.00 per room.

Respondent is requesting the value determined by the Board of Equalization of \$2,856,000.00 be upheld.

Petitioner contends the property has been overvalued based upon the actual income and capitalization of that income by published rates. Petitioner indicates the loss of the original general manager and the drainage of clientele by that manager caused reductions in income. The location of the property with good interstate visibility but difficult accessibility hurts the property's business.

Respondent contends that Petitioner's Tax Analysis report is not persuasive as to valuation and the income analysis relies upon post base period capitalization rates. The income reported is influenced by personnel and management issues and not market forces.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2010.

The Board was not persuaded by Petitioner's reliance upon the income provided by the owner as the sole determinant of value. Petitioner has lost income at least in part due to business practices. The comparable sales presented suggest adjusted values per room from \$21,746.00 to \$34,615.00 with the adjusted sale of the subject at \$30,126.00 per room. The Board was also not convinced there was sufficient evidence supporting a decline in value of the property from \$30,000.00 per room to less than \$18,000.00 per room.

The Board finds that Respondent presented sufficient evidence to support the Board of Equalization's adjusted value of \$2,856,000.00 for tax years 2009 and 2010.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

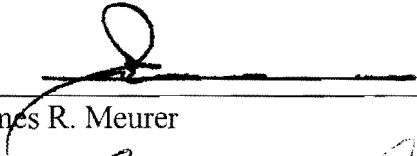
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.


Section 39-8-108(2), C.R.S.

DATED and MAILED this 16th day of March, 2012.

BOARD OF ASSESSMENT APPEALS

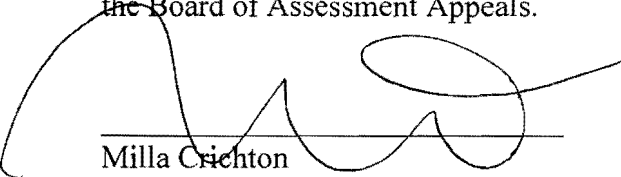


James R. Meurer



Gregg Near

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.



Milla Crichton

